SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1837

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BERKOWITZ, SHOEMYER (9), WHORTON, HAMPTON, DAVIS, COPENHAVER, SMITH (Co-sponsors), SHOEMAKER (8), SEIGFREID, LEGAN, QUINN, BRITT, MERIDETH, MYERS AND KELLY (36).

Read 1st time February 7, 2002, and 1000 copies ordered printed.

Read 2nd time February 11, 2002, and referred to the Committee on Agriculture, February 12, 2002.

Reported from the Committee on Agriculture March 13, 2002, with recommendation that the bill Do Pass by Consent.

Perfected by Consent March 20, 2002.

TED WEDEL, Chief Clerk

4333L.01P

AN ACT

To repeal section 142.028, RSMo, and to enact in lieu thereof one new section relating to the Missouri qualified fuel ethanol producer incentive fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

- Section A. Section 142.028, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.028, to read as follows:
 - 142.028. 1. As used in this section, the following terms mean:
- 2 (1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with
- 3 the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and
- 4 distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain
- 5 by-products;
- 6 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel
- 7 ethanol in which the gasoline portion of the blend or the finished blend meets the American
- 8 Society for Testing and Materials specification number D-439;
- 9 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose
- 10 principal place of business and facility for the fermentation and distillation of fuel ethanol is
- 11 located within the state of Missouri and which has made formal application, posted a bond, and

EXPLANATION — Matter enclosed in **bold** faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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conformed to the requirements of this section.

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- 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.
- 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty month time period. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any [calendar] fiscal year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] fiscal year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the [calendar] **fiscal** year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.
- 4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:
 - (1) The location of the Missouri qualified fuel ethanol producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;
 - (3) The number of bushels of Missouri agricultural commodities used by the Missouri

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48 qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;

- (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;
 - (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.
- 5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.
- 6. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.